



## *“Demystifying” China*

for AMT Members Who Want to Do  
Business in China

Prepared by:  
AMT—Beijing Office

May 2004

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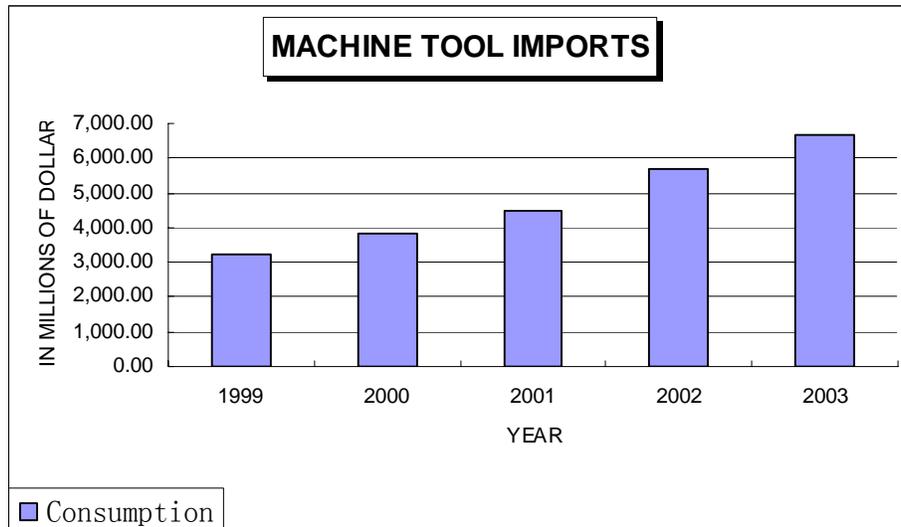
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## CAN YOU AFFORD TO LOSE THE LARGEST MACHINE TOOL MARKET IN THE WORLD – P.R.CHINA?

2003 is the second consecutive year China became the largest machine tool consumption nation in the world. The market size for machine tools was \$6.66 billion, an increase of 31.12% over the previous year. It is predicted that the market for machine tools in China will be \$7 billion by the year 2005.



(Source: CMTBA and Gardner Publications, Inc.)

- China is a machine tool and systems market worth paying attention to, if going global is any part of your strategic plan.
- The same reasons customers will buy from you in China are ultimately the same reasons they will buy from you here in the U.S.
- The laws of physics and the laws of successful business endeavor apply equally in both places.



It has been said that today the cost of delays exceeds the cost of mistakes. This means if you want to do business in China, you will probably do well to start sooner rather than later. The most helpful hint of all is this:

**AMT's China personnel are the best unpaid members you could have on your sales team. They can and will help you with all aspects of the selling cycle in China. Use them!**

**AMT - Beijing Representative Office**

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Chaoyang District, Beijing 100027, China  
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**YOUR AMT TEAM IN CHINA**



**Xingbin Li, Chief Representative,**  
AMT China Offices.

Mr. Li has been involved with the China machine tool industry for the past 22 years, holding various positions, initially as an Engineer at the Beijing Machine Tool Research Institute; Mr. Li then joined the China Machine Tool Builders' Association in 1987 as the International Cooperation Director. In 1991, he became

Vice General Manager of the China National Machine Tool Corporation's Import/Export Department. He has achieved significant domestic and international experience in the machine tool industry. Mr. Li has a B.S. degree in Mechanical Engineering from Shaanxi Mechanical Engineering University in China and received an MBA degree from the State University of New York at Buffalo in the USA. Mr. Li joined the staff of the AMT Beijing Office in May of 1993.

**AMT - Shanghai Liaison Office**

U.S. Commercial Center, Shanghai Center, Suite 631  
1376 Nanjing West Road, Shanghai 200040, China  
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[amt\\_sho@online.sh.cn](mailto:amt_sho@online.sh.cn) or [info@amtchina.org](mailto:info@amtchina.org)  
[www.amtchina.org](http://www.amtchina.org)





**Feng (Sean) Jiang, Regional Manager,**  
AMT Shanghai Liaison Office.

Sean Jiang, as he prefers to be called, has a B.S. in English for Science & Technology. He also has a Master of Arts in Linguistics and Applied Linguistics. Sean has been employed for the past eight years with the Shanghai Machine Tool Import & Export Corporation. During that period, he has had assignments with the World Bank, as an interpreter for machine tool projects with their loans.

Mr. Jiang also has a background in various administration, marketing and sales functions in the exporting and importing of machine tools and related components. In 1995, he was promoted to Vice President of the corporation. Mr. Jiang joined the staff at the Shanghai Liaison Office in July 1998.

If you don't know where to start, first contact:

Knox Johnstone

International Marketing Director

AMT

Ph: 703-827-5224

Fx: 703-749-2753

E-mail: [kjohnstone@amtonline.org](mailto:kjohnstone@amtonline.org)



**“Helpful Hints”**

▪ **Landing costs of imported equipment in China**

- Specify each cost factor and how it is computed

Tariffs

- 1. 9.7%: - for CNC machines
- 2. 0.0%: - for Lasers or other photon beam machines, ultrasonic machines
- 3. 12%- 16%: - for conventional machines
- 4. 5% - for CNC systems

VAT

- 1. 17%: - for all imported machines

**Source: China’s Customs Office**

- Compare imported goods costs with local goods costs

Cost Comparisons (U.S.\$)

	<u>U.S.A. Cost</u>	<u>China Cost</u>	<u>Cost Reduction</u>
Machining Center	135,000	72,000	47%
CNC Lathe	120,000	68,000	43%
Guideway Grinder	1,350,000	665,000	51%
CNC Turret Punch Press	140,000	100,000	29%
CNC Press Brake	60,000	40,000	33%

▪ **Documentation for importing into China**

- What kind of documentation is needed to import equipment into China? Is there a paperwork barrier?
  - 1. Sales contract
  - 2. Acceptance agreement
  - 3. 5 copies of Packing list
  - 4. User’s manual
  - 5. Bill of lading
  - 6. 5 copies of Pro-forma Invoice
  - 7. 2 copies of Certificate of quality and quantity
  - 8. 2 copies of Certificate of origin

**Source: China National Machine Tool Corporation and CMEC**



- What are the key issues with the import/customs bureaucracy?
  1. The seller has nothing to do with the import/customs office. But the buyer should submit all necessary documentation, such as sales contract, bill of lading and the certificate for imported machine from central/local government, etc. to the office for customs clearance.
- **How do I start a sales company, service company and manufacturing company in China?**

No matter what form of company, sales company, service company or manufacturing company you set up in China, the procedures are the same. All you need to do is to understand and abide by three basic Chinese laws: "the Law of People's Republic of China on China-Foreign Joint Ventures; the Law of People's Republic of China on China-Foreign Contractual Enterprises; and, the Law of People's Republic of China on the Wholly Owned Foreign Enterprises."

#### 1. China-foreign joint ventures (JV)

China-foreign joint ventures may also be called equity joint ventures. They are established by foreign companies, enterprises, economic organizations, or individuals and Chinese counterparts to invest together in China (rights and duties of each side are stipulated in the contracts signed by each side).

A JV's characteristics are as follows: all sides invest together, manage together, share risks according to the investment proportion and share losses and benefits. The proportion of foreign investment cannot be less than 25% of the total investment.

#### 2. China-foreign contractual JV enterprises

In establishing China-foreign contractual JV enterprises, usually, foreigners provide all or most of the funds; Chinese enterprises or individuals provide land, factory buildings, available existing equipment and facilities; some also provide part of the funds.

#### 3. The Wholly owned foreign enterprises (WOFE)

This means enterprises established in China by foreign companies, enterprises, or individuals, according to China's Laws, in which all the funds are invested by foreign investors.

According to the stipulation of the Law of People's Republic of China, Wholly Owned Foreign Enterprises should favor the development of China's national economy, and therefore should either, adopt advanced technology and equipment or export most of their manufactured products. Wholly Owned Foreign Enterprises (WOFEs) are commonly called Limited Liability Companies.

***Source: three basic laws***



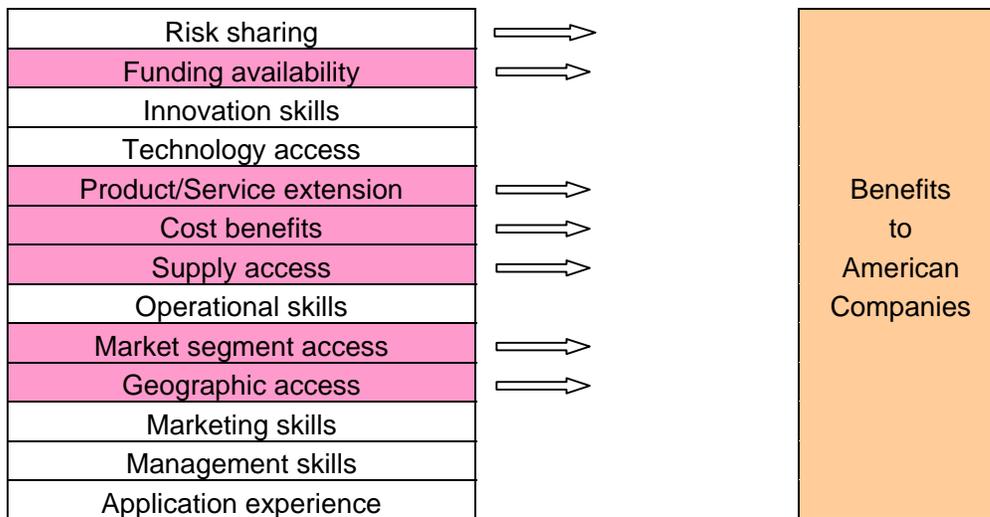
- **How do I remit profits/dividends of my investment in China back to the U.S.?**

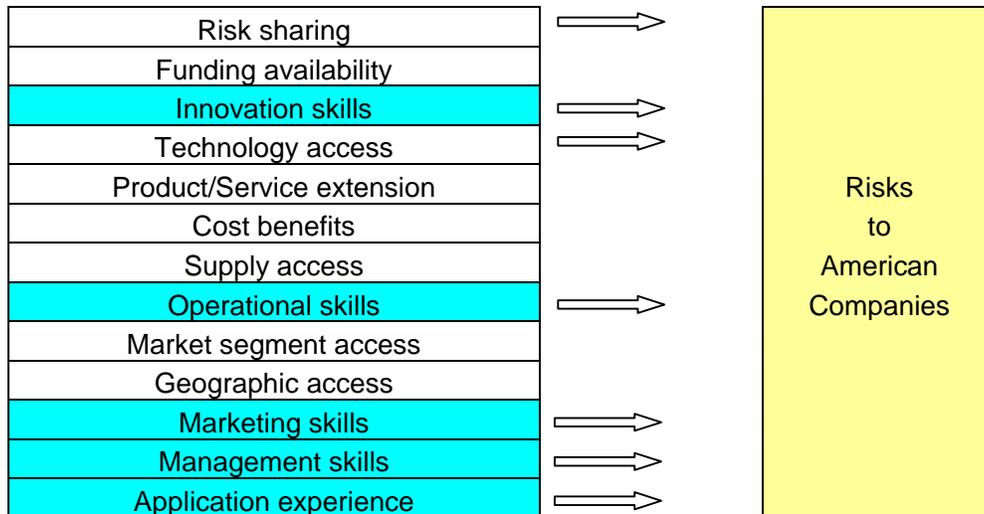
There is no restriction in China for remitting profits/dividends of your investment back to the U.S.

- **What are the benefits and risks of forming a partnership with a local company in China?**

**Benefits**

**Benefits of forming an alliance with a local company in China**



**Risks****Risks of forming an alliance with a local company in China**

- **What are the incentives offered for foreign investment (of the kind specified above) in Chinese Special Economic Zones?**

**Tax Incentive**

## 1. Basic Income Tax Incentive

The companies invested in the zones can enjoy 1) paying lower income tax, 15% instead of the 33% that other companies located outside of zones must pay, 2) tax holiday, which means that the company is exempt from tax for the first two profit making years, enjoys subsequent three-year 50% reductions, and 3) longer term tax reduction.

## 2. Other Tax Incentive

In addition to the above-mentioned incentive, the company invested in the zones to some extent can still enjoy 1) property tax reduction, 2) VAT exemption for exports, and 3) local tax exemption based on negotiation with the local government.

## 3. Best case tax scenario

## Scenario I

If the company invested in the "special economic zones" with 10 years or more production term, and has 70% or more of its products exported outside of China, the incentives will be tax reduced permanently from 30% to 15%; exempt from tax for first two profit making years, subsequent three-year 50% reductions ( $15\% \times 50\% = 7.5\%$ ); 50% reductions extended forever, minimum 10% tax rate.

	1	2	3	4	5	6	7	8	9+
Tax rate	0	0	7.50%	7.50%	7.50%	10%	10%	10%	10%

## Scenario II

If the company invested in the "special economic zones" with 10 years or more production term and has advanced technology status identified by the government, the incentives will be tax reduced permanently from 30% to 15%; exempt from tax for first two profit making years, subsequent three-year 50% reductions ( $15\% \times 50\% = 7.5\%$ ); 10% tax rate extended for additional three years.

	1	2	3	4	5	6	7	8	9+
Tax rate	0	0	7.50%	7.50%	7.50%	10%	10%	10%	15%

- **What are the incentives offered to companies in China if they export?**

1. The major incentive offered to companies in China if they export is that the companies can enjoy export commodity tax refund policy. The current tax refund rate for machinery products is 15%.

- **Financing sources for imported equipment into China**

**Financing sources for imported equipment into China**

Sources	SOE	SOE (Listed company)	Private	JV	WFOE
Government	Yes	Yes	Difficult	Relatively Difficult	No
Banks	Yes	Yes	Yes	Yes	Yes
Securities Market	No	Yes	No	No	No
Bonds	No	No	No	No	No
Self-financing	Yes	Yes	Yes	Yes	Yes

▪ **Financing sources for locally manufactured equipment in China**

Sources	SOE	SOE (Listed company)	Private	JV	WFOE
Government	Yes	Yes	Difficult	Relatively Difficult	No
Banks	Yes	Yes	Yes	Yes	Yes
Securities Market	No	Yes	No	No	No
Bonds	No	No	No	No	No
Self-financing	Yes	Yes	Yes	Yes	Yes

▪ **How does the wage-structure work in China?**

Manufacturing wage levels

1. Entry level unskilled worker \$200 per month
2. Experienced worker \$350 per month
3. Fringe benefits add 100% (+\$100 per month)

**Salary Structure of WOFEs and JVs in China, 2000**

**Senior Manager**

City	(in US Dollars)						
	Finance/Acct.	Admin.	Sales	Marketing	Engineering	HR	IT
Beijing	47,549	N/A	53,664	52,742	42,457	42,685	62,235
Guangzhou	30,259	N/A	34,046	N/A	N/A	29,953	42,530
Shanghai	39,953	N/A	42,465	43,582	31,775	38,086	N/A
Shenzhen	32,786	30,267	34,383	30,277	N/A	32,657	N/A
Taipei	93,907	N/A	97,325	94,201	81,304	94,578	84,275
Hong Kong	95,528	61,917	83,308	102,099	89,385	92,678	100,797

**Junior Manager**

City	(in US Dollars)						
	Finance/Acct.	Admin.	Sales	Marketing	Engineering	HR	IT
Beijing	22,758	20,471	24,060	23,374	20,763	22,424	27,743
Guangzhou	15,109	14,015	19,319	16,225	13,972	14,712	20,725
Shanghai	19,163	16,896	20,070	20,971	16,686	18,850	22,970
Shenzhen	15,987	16,012	16,737	16,052	17,311	15,725	13,282
Taipei	57,894	N/A	61,635	59,230	51,240	58,388	56,754
Hong Kong	38,297	37,896	34,716	34,949	32,712	38,449	38,205

\* *The targeted people in this survey are Chinese, not foreigners.*

**Source: The American Chamber of Commerce People's Republic of China, 2001/02/09**

- **How does the Human Resources structure work in China?**

**Pension Fund (Endowment Insurance)**

Based on Chinese Labor Law, employers have the responsibility/obligation to pay Pension Fund for employees.

The practice is that 28% of the employee's salary per month is for the Pension Fund. The employer pays 20% and the employee pays 8%.

**Unemployment Insurance**

Based on Chinese Labor Law, employers have the responsibility/obligation to pay Unemployment Insurance for employees.

The practice is that 2% of the employee's salary per month is for Unemployment Insurance. The employer pays 1.5%, the employee pays 0.5%.

**Industrial Injury Insurance**

Based on Chinese Labor Law, employers have the responsibility/obligation to pay Industrial Injury Insurance for employees.

The practice is that 0.4% of the employee's salary per month is for Industrial Injury Insurance. The employer pays 0.4%.

**Public Accumulation Fund for Housing Construction**

Based on the Chinese Labor Law, employers have the responsibility/obligation to pay Public Accumulation Fund for Housing Construction for employees.

The practice is that 20% of the employee's salary per month is for Public Accumulation Fund for Housing Construction. The employer pays 10%; the employee pays 10%.

**Health Insurance**

Based on the Chinese Labor Law, employers have the responsibility/obligation to pay Health Insurance for employees.

The practice is that the employer buys commercial health insurance for employees. For instance, if the employer buys a 50,000 yuan's health insurance policy per year, the employer pays 260 yuan per month.



## **Employees and Talent Hunt**

### 1. Foreign Service Companies

There are several Foreign Service Companies in China right now. Based on the regulations & rules set by the Central government, legally speaking, all employees hired by WOFEs and Representative Offices must go through Foreign Service Companies. The Foreign Service Companies charge WOFEs with administration fees and provide WOFEs with services. The fees range from \$100 to \$250 for each individual employee per month.

The top three Foreign Service Companies are

- China International Intellectech Corp. (CIIC)  
25/F, West Wing, Hanwei Plaza,  
7 Guanghualu, Chao Yang District, Beijing 100020, China  
Phone: 86/10/65613901  
Fax: 86/10/65613900  
E-mail: [ywa@nauk.ciic.com.cn](mailto:ywa@nauk.ciic.com.cn)  
Web site: [www.ciic.com.cn](http://www.ciic.com.cn)
- Foreign Enterprise Service Corp. (FESCO)  
No 14, Chaoyangmen Nandajie, Chaoyang District,  
Beijing 100020, China  
Phone: 86/10/65080077  
Fax: 86/10/65021243  
E-mail: [webmaster@fesco.com.cn](mailto:webmaster@fesco.com.cn)  
Web site: [www.fesco.com.cn](http://www.fesco.com.cn)
- China International Enterprise Cooperation Corp.  
No 20, Zhichunlu, Haidian District, Beijing, China  
Phone: 86/10/62045656  
Fax: 86/10/62045657  
E-mail: [ciecco@mail.bj.ciet.net.cn](mailto:ciecco@mail.bj.ciet.net.cn)  
Web site: [www.ciecco.com.cn](http://www.ciecco.com.cn)

### 2. Head Hunting Service Companies

There are many head hunting service companies in China. Almost every well-known head hunting service company in the world established its representative office in China. Consequently, foreign companies can work with their contracted Head Hunting Service Company for their HR requirements.

### 3. Talent market

Every year the government holds a dozen talent-recruiting shows in cities throughout China. Initially the aim was to help laid-off workers from SOEs to find jobs. But now, the shows more or less serve as a market for those companies looking for employees.

#### 4. University

The universities and colleges are one of the major sources for foreign companies to recruit their new employees. Often a company signs an agreement with the university before the student graduates, and pays a fee for this purpose so that the company has the priority to talk/negotiate with the students first.

#### 5. Professional technical school

The Professional technical schools have the same agreement with the universities. However, the companies usually recruit low-level workers there.

### ▪ **How to protect your names and trademarks in China**

In order to protect your names and trademarks in China, foreign companies need to register their names and trademarks in China. The official Chinese organization for trademark registration is State Administration for Industry & Commerce (SAIC). The necessary documents, information and procedures for filing trade/service mark applications are as follows.

#### Documents:

1. The name and address of the applicant, including the name of the executive officer who will sign the Power of Attorney, if the applicant is a juridical person.

2. The specified goods to be designated;

In China, the official fee increases with the number of goods designated in an application. For that reason, you have to designate in an application the goods in terms of a precise number of exact names, but not in any names that could be deemed comprehensive or ambiguous by which no amount of the number of goods/official fee may be determined.

3. In order to enjoy Convention Priority, you have to file the application within six (6) months of the filing date of the first application. Further, you have to file the Priority Documents no later than three (3) months after the China filing date. And at the same time of filing your application in China, you have to indicate the country, serial number and filing date of the first application. Please note that the Priority Documents should be the original documents certified by the Patent Office.

4. A Power of Attorney executed by the applicant;

If foreign companies apply for trademark registration through a law firm, they need to provide a Power of Attorney to finalize the application. One form suffices for several applications to be filed simultaneously, and no notarization or legalization is required.

#### Validity period of Registration: 10 years

The duration of a trademark right is ten (10) years from the registration date. The owner of a trademark registration may request renewal of the term of his trademark right every ten (10) years.

An application for renewal of a trademark registration should be filed during the period.

#### Time required to get Registration Certificate : 12-15 months

The application will undergo examination not less than six months after the filing date in consideration of the possibility that conflicting applications may be filed claiming Convention Priority during the six-month period.

If the Examiner finds no grounds for rejection, the application will be published in a Trademark Gazette to allow the filing of opposition by third parties. If no opposition is filed within 90 days following the publication, the Examiner renders the decision for registration. The above-mentioned procedure usually takes 12 or 15 months.

Schedule Charges For Trademark:

	Item	Official Fees USD	Attorney Fees USD
1	Filing a trademark registration in one class (10 goods/services items in each class) additional charge for per added item	125 12.5	300 8
2	Filing a 3-Dimensional trademark registration in one class (10 goods/services items in each class) additional charge for per added item	125 12.5	450 8
3	Issuing a registration certificate		25
4	Filing a request for renewal of trademark	250	400
5	Delayed submission of a renewal document	62.5	110
6	Claim of priority (per claim)		50
7	Delayed submission of convention priority document		30
8	Withdraw an application		60
9	Reporting an office action Reporting an office action with attorney's opinion		50 100
10	Response to an office action		100
11	Appeal to the Trademark Adjudication Board	187.5	410
12	Filing an opposition	125	410
13	Voluntary Cancellation of a trademark registration		110
14	Filing a cancellation against the improper registration	187.5	410
15	Filing a cancellation against the trademark based on non-use for three consecutive years	125	250
16	Review a decision of opposition or improper registration	187.5	410
17	Lodging a dispute	187.5	410
18	Filing a cancellation against the trademark based on the owner was canceled more than 1 year.	62.5	75
19	Assignment	125	275
20	Recording a trademark license	37.5	145
21	Modification of name/ address of applicant	62.5	155
22	Filing a request for re-issue of registration	125	155
23	Filing a request for authentication document of registration	12.5	100
24	Translation of the English trademark to Chinese		25

25	Translation of document or goods (from English to Chinese, per 100 original words)		16
26	Handling infringement case		120.00 per hour
27	Trademark search		
	Chinese or Alphabetic words		
	1) Ordinary (3 working days)	15	50
	2) Urgent (48 hours)	25	100
	Device		
	1) Ordinary (5 working days)	50	100
	2) Urgent (3 working days)	80	150
28	Filing request for collective/certification trademark registration for each additional class (same trademark)	375 375	540 500

State Administration for Industry & Commerce (SAIC)

8 Sanlihe Donglu, Xichengqu,  
Beijing 100820, China  
Phone: 010-68032233  
Fax: 010-68010463  
E-mail: [info@mail.saic.gov.cn](mailto:info@mail.saic.gov.cn)  
Web site: [www.saic.gov.cn](http://www.saic.gov.cn)

▪ **Procedures for Setting Up a Representative Office in China**

1. Contact Government Employment Agencies, Such as FESCO, CIIC, etc. Sign so called Service Contract with the agency. Companies registered outside China cannot hire people in China. All the employment shall be through employment agencies. Although foreign companies can decide whom to hire, the employment has to go through employment agencies.
2. Employment agencies usually charge \$200-300/month for each employee. This is called Service charge or Management Fee.
3. After signing the contract with Government Employment Agencies, You need a local government to sponsor your registration. Usually, the cost is about \$1,000.
4. Sign a lease for office. The office shall be in buildings, which was entitled by government as Foreign Related Business Buildings. There are many such Buildings around. Usually, this kind of buildings is better decorated and rental is a bit higher. (Current rate is around \$25-35/square meter per month)
5. With the help from employment agencies, go through all the procedures of applying for a Business Registration. (refer to the attached sample letter from CIIC)
6. After getting the Business Registration, go through registrations of all relevant government departments, such as, police, tax bureau, statistics, customs, etc..
7. Now, you are ready for business. For representative offices, taxes are levied based on the total expenses of the representative office. Total tax is about 10% total expenses.
8. Business Registration is renewed annually. Every three years, local government sponsorship has to be renewed.

▪ **Documents To Be Submitted For Setting Up a Representative Office in China**

If a foreign enterprise plans to establish a representative office in Beijing China, the following documents should be submitted to the Ministry of Foreign Trade and Economic Cooperation of China:

1. Application Letter. This letter should be signed by the Chairman of the Board or General Manager of the enterprise, and generally includes the following content: Background of the enterprise, situation of business, purpose of establish the Rep. Office, name of the office, place to be located, term of residence (at least three years), personnel to be dispatched (mainly the Chief Representative) and business scope of the office. (Original)
2. Certificate for registration of the enterprise issued by competent governmental authorities of the country or region where the enterprise is located. (Copy) (Certificate of Incorporation and valid certificate of business registration shall be offered by Hong Kong enterprise.)
3. Bank Reference Letter. This letter should be issued by a non-Chinese bank that has business relations with the foreign enterprise with validity of six months. It should reflect the capital faith of the enterprise in business relations with the bank, or a description of the balance of its account (above six digits). This letter should be signed by the senior officer or business manager of the bank. (Original)
4. Appointment Letter for the Chief Representative. This appointment should be signed by the Chairman or General Manager of the foreign enterprise and should include such as name, position and term of the appointed person. In case the Chairman is the Chief Representative, his letter of appointment should be co-signed by at least two directors, or by the Managing Director of the enterprise which has no Board of Directors. (Original)
5. Brief introduction of the foreign enterprise, including situation of business of the enterprise in its own country or local district, and the situation of business activities conducted with the relevant authorities of China should be included. (Original or Copy)
6. Curriculum Vitae of Chief Representative of the Rep. Office. This CV should be full, accurate and true including date of birth, sex, place of birth, nationality, education background and work experience without time interruption. (Original)
7. Identification Certificates of the Chief Representative. (Copy)
  - A. Foreign citizens bearing valid ordinary passport;
  - B. Chinese citizens bearing certificate issued by the foreign country for permission of permanent residence abroad;
  - C. Compatriots from Hong Kong, Macao and Taiwan bearing valid certificates;
  - D. Chinese citizens bearing ID card for residence of the PRC China;

8. 6 photo pictures (black & white) for the Chief Representative.
9. If the Chief Representative is local Chinese bearing ID card of China, an employment contract between the foreign enterprise and a foreign service company (like CIIC) should be submitted. (provided by CIIC)
10. Lease Agreement for the site of the Rep. Office to be established. (Copy)
11. Certificate concerning foreign affairs for the business site. The business site shall possess the right approved by Beijing Municipal Public Security Bureau concerning foreign affairs. (Copy)
12. Other application materials deemed necessary by the authorities of examination and approval.

If the above-mentioned documents and materials are submitted in a foreign language, Chinese translations should be attached. All the materials must printed on A4 letterhead paper of the enterprise. After the required documents are completed, an entrustment contract shall be signed with CIIC. CIIC will conduct the application procedures in the name and on behalf of the foreign enterprise.



**APPENDIX 1**

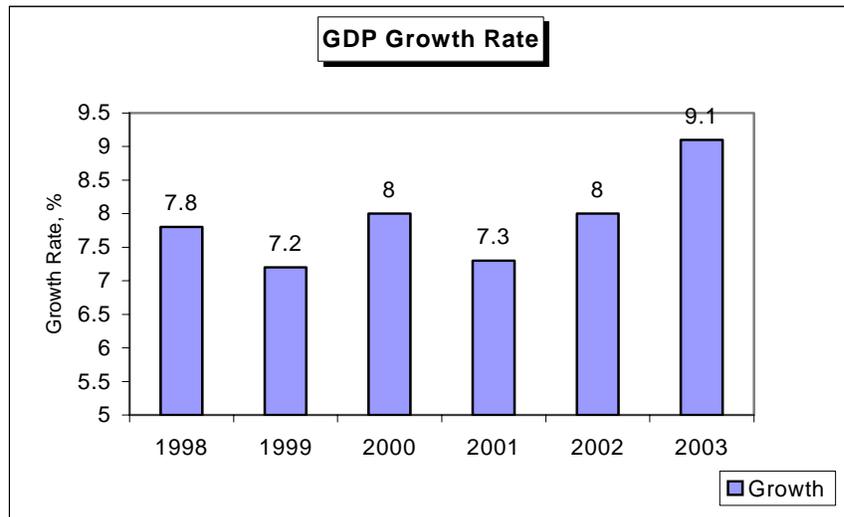
**CHINA'S MACROECONOMY**

**GDP**

Over the past 25 years, China's annual average GDP growth rate was more than double digits. In 2003 China's GDP reached \$1.34 trillion, an increase of 9.1 per cent from the previous year.

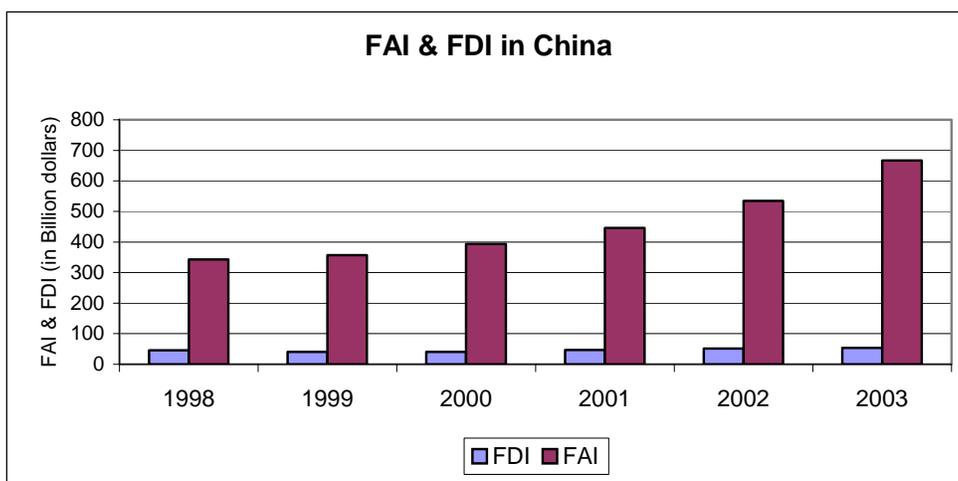
Looking into the future, there are many good reasons to believe that China's economy is expected to maintain its excellent development momentum. China continually seeks to offset constraints on its external economy through massive public capital spending on infrastructure, by continuing support the troubled state sector with bank loans and various measures designed to stimulate consumer spending. The government expects GDP growth to average 7-8% over the medium term.

One additional positive factor to consider is that Beijing will host the Olympic Games in 2008, pledging more than US\$46 billion in new facilities and infrastructure development. This investment will further boost development in the city, including expansion of parks and green belts and abatement of air and water pollution. Some commentators have suggested that winning the Olympic games could add a further 0.3-0.4 percentage points to nation's GDP growth each year until 2008, as the extra spending boosts the construction, transport, tourism and service sectors.



## **FAI & FDI**

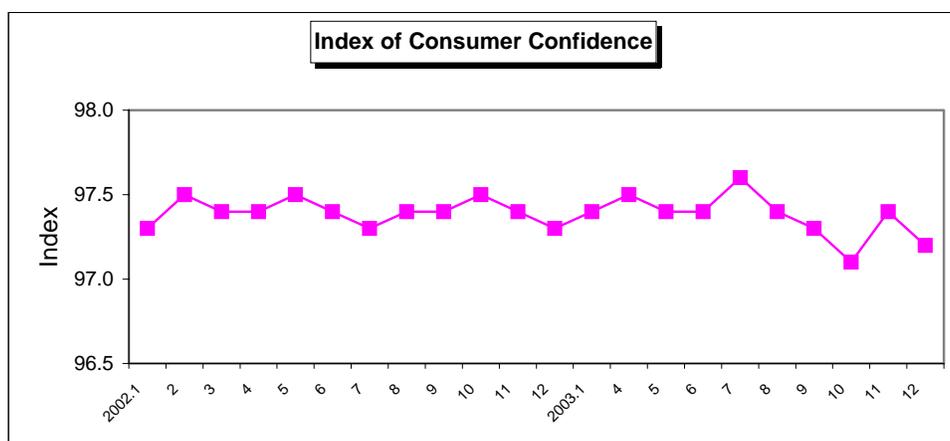
For more than two decades, China's strong economy has been driven mainly by three forces, which are social fixed assets investment (FAI) and foreign direct investment (FDI), consumer spending and exports.



In 2003 China's fixed asset investment (FAI) reached \$667 billion, an increase of 26.7% compared to 2002.

Besides, China's foreign direct investment (FDI) flow in 2003 reached over \$53.5 billion dollars, which represented an increase of 1.4% compared to 2002.

## **Consumer Spending**



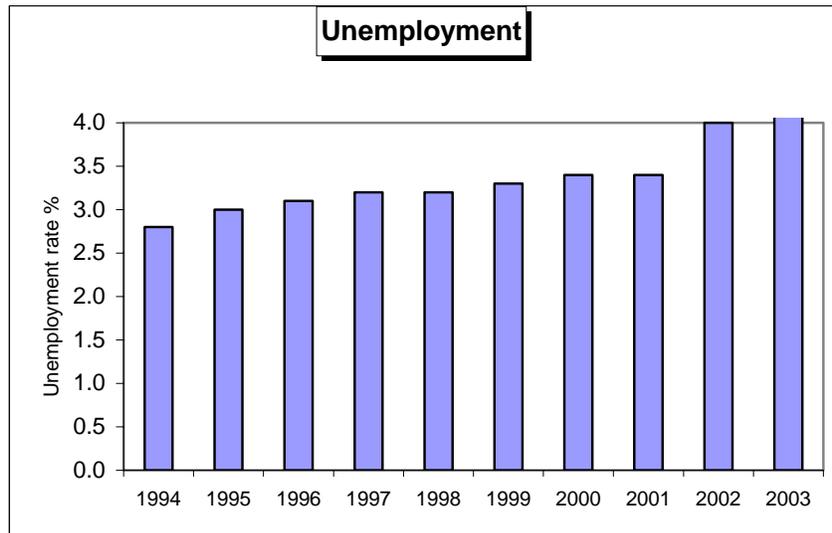
The government has continued trying various ways of kick-starting private consumption, including taxing interest on savings, reducing interest rates, introducing three week-long public holidays (May 1-7, Oct. 1-7, Lunar New Year), and encouraging banks to provide loans for house and car purchases. Throughout the whole year of 2003, consumer sentiment remained at a high level.

By the end of 2003 China's residents' deposits exceeded \$181 billion.



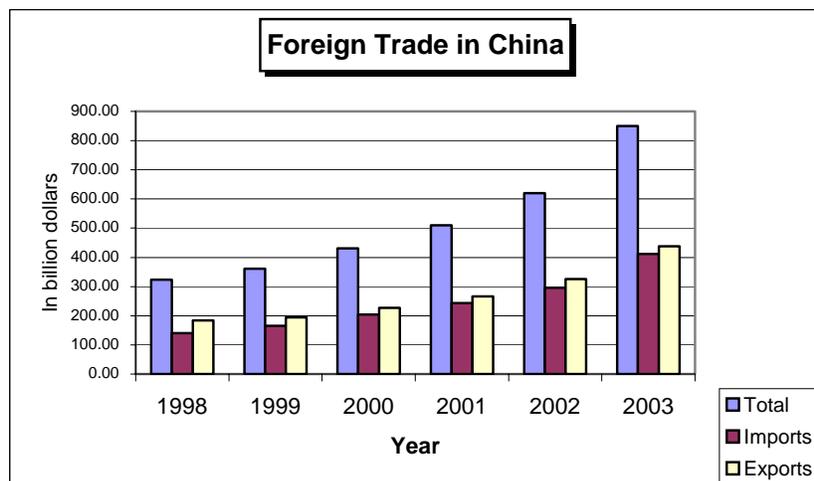
**Unemployment**

China's official unemployment rate rose to 4.3% in 2003 and is forecast to hit 4.7% this year. However, this estimate covers only those registered with the Ministry of Labor and Social Security. It does not include about 5.5 million laid off workers (i.e., those who were laid off as part of ongoing SOE reforms) who have not found alternative employment. When laid off workers are included, urban unemployment rises to about 7%.



**Foreign Trade**

In 2003 China's exports rose 34.6 per cent to US\$438 billion and imports grew 39.9 per cent to US\$412 billion. China's trade surplus stood at US\$26 billion.



## Foreign exchange Reserves

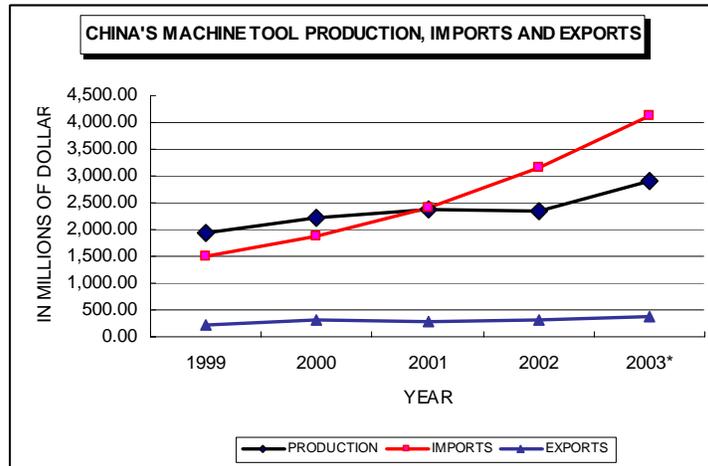
At the end of 2003, China's foreign exchange reserves reached \$400 billion. This has encouraged a slight loosening in exchange controls, including more freedom for a select few banks and permission for smaller companies to retain foreign currency earnings. One reason for the jump in reserves is the steady reduction in foreign currency interest rates in 2002, which makes holding such currency less attractive.

<i>Exchange Rates &amp; Foreign Exchange Reserves</i>									
	1995	1996	1997	1998	1999	2000	2001	2002	2003
CNY/US\$ (an. Avg)	8.35	8.31	8.29	8.28	8.28	8.28	8.25	8.26	8.26
CNY/US\$ (eop)	8.32	8.30	8.30	8.28	8.28	8.28	8.23	8.23	8.23
Foreign exchange reserves (US\$bn)	75.38	107.04	142.76	149.19	157.73	171.20	221.20	278.2	400
eop =end of period	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>

## THE CHINESE MACHINE TOOL INDUSTRY & MARKET

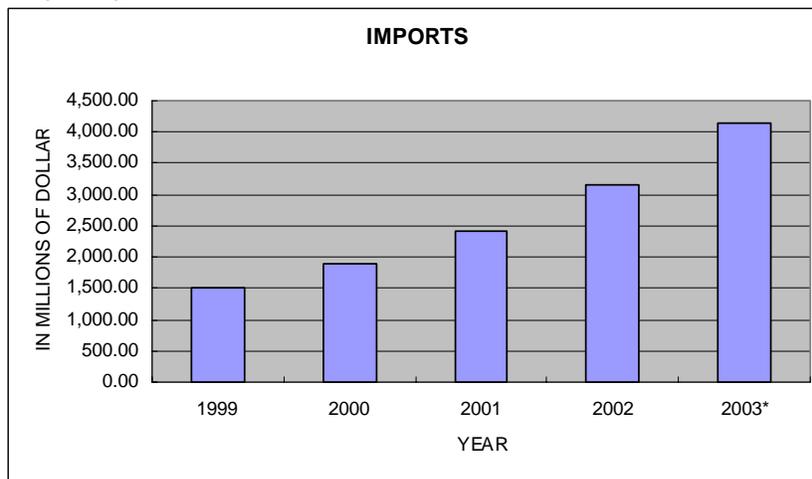
### PRODUCTION

In 2003 China remains the 4<sup>th</sup> largest machine tool producing nation in the world and produced \$2.91 billion of machine tools, an increase of 24% over the previous year. China currently has more than 1,000 machine tool companies with over 800,000 employees, which produce various types of machine tools and related products. The machine tool companies are located all over the country. But, the top four machine tool group companies are located in the Shenyang, Dalian Beijing and Shanghai areas respectively.



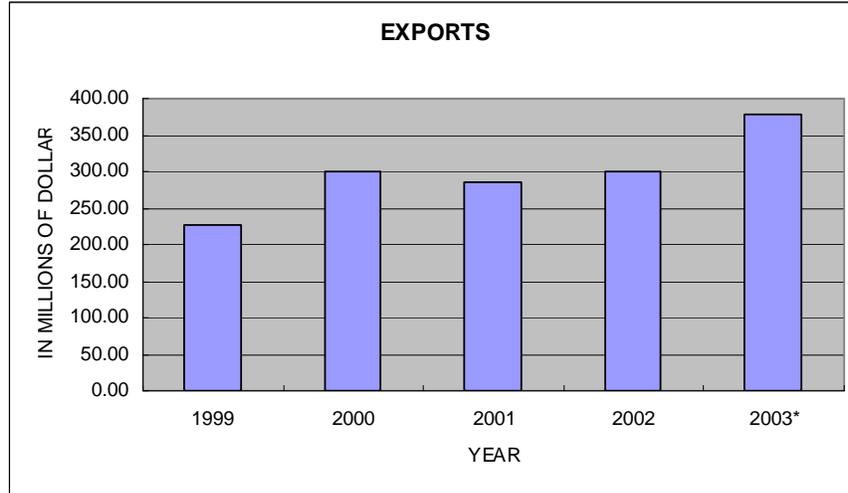
### IMPORTS

With the ever-increasing development of the economy and modernization of its industries, China invested heavily in importing capital equipment, including machine tools. From 1999 to 2003, China's machine tool imports increased by 43% on average every year. In 2003 China imported \$4.13 billion worth of machine tools, up 31.12% compared with last year, of which metal cutting machines imports was \$2.91 billion, an increase of 40.04% and metal forming machine imports \$1.22 billion, up 13.91%. It is predicted that China's machine tool imports will reach \$6 billion by the year 2007.



**EXPORTS**

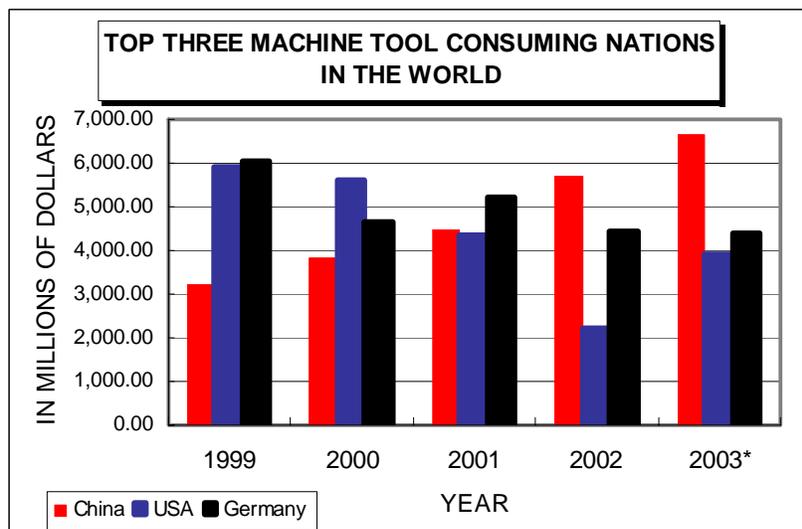
The proportion of China’s machine tool exports is relatively small. For last ten years China’s annual machine tool exports maintains about \$300 million. In 2003 China’s machine tool export was \$379 million, up 20.9% over the previous year, of which metal cutting machine exports was \$318 million, an increase of 20.66% and metal forming machine exports \$60.6 million, up 22.19%.



**MACHINE TOOL CONSUMPTION**

China is the largest machine tool consuming nation in the world. In 2003, China consumed \$6.66 billion dollars of machine tools, (followed by Germany \$4.372 billion, Japan \$4.109 and the US \$3.899) an increase of 31.12% over the previous year.

We have many reasons to believe that this increasing trend can last for years to come.



(Source: CMTBA and Gardner Publications, Inc)



**CHINA'S MACHINE TOOL IMPORTS BY TYPE OF MACHINES**  
**In 2002 and 2003**

*(IN THOUSAND OF USD)*

HS	DESCRIPTION	2003		2002		CHANGES	
		UNITS	VALUE	UNITS	VALUE	UNITS, %	VALUE, %
			5,956,902		4,430,808		34.44
	<b>Metalcutting &amp; Metalforming Total</b>	<b>125,702</b>	<b>4,130,880</b>	<b>124,132</b>	<b>3,150,502</b>	<b>1.26</b>	<b>31.12</b>
	of which CNC	30,148	2,680,313	25,097	1,884,456	20.13	42.23
	<b>Metalcutting machines</b>	<b>75,388</b>	<b>2,905,476</b>	<b>75,959</b>	<b>2,074,692</b>	<b>-0.75</b>	<b>40.04</b>
	of which CNC	23,320	2,177,798	18,276	1,453,727	27.60	49.81
8458.00	<b>Lathes</b>	<b>14,978</b>	<b>374,497</b>	<b>13,970</b>	<b>282,227</b>	<b>7.22</b>	<b>32.69</b>
	of which CNC	5,835	303,249	5,446	227,367	7.14	33.37
	Horizontal Lathes	4,950	151,648	4,735	126,292	4.54	20.08
	of which CNC	2,243	126,504	2,245	106,663	-0.09	18.60
	Other lathes	10,028	222,850	9,235	155,935	8.59	42.91
	of which CNC	3,592	176,746	3,201	120,704	12.21	46.43
8459.10	<b>Drilling machines</b>	<b>6,934</b>	<b>170,170</b>	<b>7,162</b>	<b>128,455</b>	<b>-3.18</b>	<b>32.47</b>
	of which CNC	1,591	144,004	1,268	103,665	25.47	38.91
	Bed-type drilling machines	5,032	23,183	5,452	21,881	-7.70	5.95
8459.30	<b>Boring machines</b>	<b>972</b>	<b>114,049</b>	<b>728</b>	<b>60,693</b>	<b>33.52</b>	<b>87.91</b>
	of which CNC	432	99,254	334	51,333	29.34	93.35
	Boring & Milling machines	612	83,442	505	39,347	21.19	112.07
	of which CNC	376	75,859	280	33,699	34.29	125.11
	Other boring machines	360	30,607	223	21,346	61.43	43.39
	of which CNC	56	23,395	54	17,633	3.70	32.68
8459.50	<b>Milling machines</b>	<b>8,486</b>	<b>290,662</b>	<b>8,024</b>	<b>195,082</b>	<b>5.76</b>	<b>48.99</b>
	of which CNC	3,851	245,422	2,773	150,751	38.87	62.80
	Knee type milling machines	1,458	30,525	1,802	28,922	-19.09	5.54
	of which CNC	379	19,757	409	17,969	-7.33	9.95
	Gantry milling machines	425	72,613	450	44,826	-5.56	61.99
	of which CNC	252	67,388	182	40,729	38.46	65.45
	Other milling machines	6,603	187,524	5,772	121,334	14.40	54.55
	of which CNC	3,220	158,276	2,182	92,053	47.57	71.94
8461.50	<b>Sawing machines</b>	<b>6,689</b>	<b>76,830</b>	<b>7,678</b>	<b>64,292</b>	<b>-12.88</b>	<b>19.50</b>
8461.10	<b>Shaping machines</b>	<b>207</b>	<b>3,583</b>	<b>320</b>	<b>2,876</b>	<b>-35.31</b>	<b>24.58</b>
8461.20	<b>Slotting machines</b>	<b>56</b>	<b>272</b>	<b>46</b>	<b>309</b>	<b>21.74</b>	<b>-11.97</b>
8461.30	<b>Broaching machines</b>	<b>104</b>	<b>7,500</b>	<b>109</b>	<b>7,181</b>	<b>-4.59</b>	<b>4.44</b>
8460.00	<b>Grinding machines</b>	<b>17,884</b>	<b>475,923</b>	<b>21,005</b>	<b>353,449</b>	<b>-14.86</b>	<b>34.65</b>
	of which CNC	1,580	222,165	1,402	145,008	12.70	53.21
	Cylindrical grinding machines	787	86,663	683	60,920	15.23	42.26
	of which CNC	326	73,048	225	39,889	44.89	83.13
	Internal grinding machines	301	23,886	304	19,286	-0.99	23.85
	of which CNC	105	18,766	119	10,658	-11.76	76.07
	Surface grinding machines	3,481	65,969	3,034	54,142	14.73	21.84
	of which CNC	468	33,166	458	23,491	2.18	41.19
	Tool grinding machines	1,320	43,058	1,685	32,786	-21.66	31.33
	of which CNC	249	31,538	235	25,228	5.96	25.01
	Other grinding machines	1,651	90,193	1,948	64,068	-15.25	40.78
	of which CNC	432	65,648	365	45,741	18.36	43.52
	Centreless grinding machines	56	12,395	57	7,895	-1.75	57.00

	Honing machines	137	18,449	159	14,247	-13.84	29.49
	lapping machines	3,546	84,942	3,377	48,176	5.00	76.32
	Grinding wheel machines	3,219	2,278	3,595	2,900	-10.46	-21.45
	Polishing machines	3,386	48,089	6,163	49,028	-45.06	-1.92
8461.40	<b>Gear generation machines</b>	800	85,736	573	42,277	39.62	102.80
	of which CNC	215	69,342	212	36,368	1.42	90.67
8459.70	<b>Threading machines</b>	3,611	28,387	4,184	27,021	-13.70	5.06
8457.20	<b>Single station transfer machines</b>	367	21,806	349	19,837	5.16	9.93
8457.30	<b>Multi-station transfer machines</b>	500	71,770	544	66,034	-8.09	8.69
8456.00	<b>Non-tradition machines</b>	7,334	521,223	6,213	425,880	18.04	22.39
	of which CNC	4,684	463,090	3,521	377,635	33.03	22.63
	Ultrasonic wave machines	634	15,294	865	13,778	-26.71	11.00
	EDM	4,185	170,735	3,599	128,435	16.28	32.93
	of which CNC	2,169	127,896	1,772	93,968	22.40	36.11
	EDM wire cut machines	629	149,393	342	150,248	83.92	-0.57
	Laser machines	1,468	124,391	1,029	99,745	42.66	24.71
	Flame cutting off machines	418	61,409	378	33,674	10.58	82.36
8457.10	<b>Machining centers</b>	5,132	631,272	3,320	361,600	54.58	74.58
	of which CNC	5,132	631,272	3,320	361,600	54.58	74.58
	of which vertical	3,760	294,889	2,317	170,786	62.28	72.67
	of which horizontal	738	227,747	378	108,396	95.24	110.11
	of which gantry	118	50,713	78	30,285	51.28	67.45
	of which others	516	57,923	547	52,133	-5.67	11.11
8461.90	<b>Other machines</b>	1,334	31,796	1,734	37,481	-23.07	-15.17
8462-8463	<b>Metallforming machines Subtotal</b>	50,314	1,225,404	48,173	1,075,810	4.44	13.91
8462.00	<b>Metallforming machines</b>	40,689	1,062,785	40,722	922,033	-0.08	15.27
	of which CNC	6,828	502,515	6,821	430,729	0.10	16.67
8462.10	<b>Forging or die-stamping machines</b>	15,107	416,611	15,199	391,321	-0.61	6.46
	of which CNC	3,356	225,986	3,133	211,763	7.12	6.72
8462.20	<b>Bending &amp; straightening machines</b>	4,983	157,987	4,498	105,293	10.78	50.05
	of which CNC	1,445	100,809	1,297	62,057	11.41	62.45
	Bending machines	1,065	45,189	899	24,139	18.46	87.20
	of which CNC	258	32,781	162	10,804	59.26	203.42
	Straightening machines	3,918	112,798	3,599	81,154	8.86	38.99
	of which CNC	1,187	68,028	1,135	51,253	4.58	32.73
8462.30	<b>Sharing machines</b>	1,911	85,561	2,324	85,136	-17.77	0.50
	of which CNC	482	56,095	796	58,546	-39.45	-4.19
	Vertical	174	32,625	480	33,239	-63.75	-1.85
	of which CNC	83	24,012	387	24,413	-78.55	-1.64
	Horizontal	137	18,592	183	22,152	-25.14	-16.07
	of which CNC	67	14,354	102	18,732	-34.31	-23.37
	Other sharing machines	1,600	34,344	1,661	29,745	-3.67	15.46
	of which CNC	332	17,730	307	15,400	8.14	15.13
8462.40	<b>Punching machines</b>	3,950	107,804	3,387	91,445	16.62	17.89
	of which CNC	893	69,025	842	60,633	6.06	13.84
8462.90	<b>Hydraulic presses</b>	2,942	147,873	2,742	88,993	7.29	66.16
	of which CNC	652	50,600	753	37,730	-13.41	34.11
8462.99	<b>Other metal forming machines</b>	11,796	146,949	12,572	159,846	-6.17	-8.07
8463.00	<b>Other presses</b>	9,625	162,619	7,451	153,777	29.18	5.75
8454.30	<b>Die casting machines</b>	1,671	148,926	1,493	103,652	11.92	43.68
	of which CNC	356	43,366	303	29,294	17.49	48.04
8465.00	<b>Woodworking machines</b>	41,684	415,703	35,361	329,490	17.88	26.17

		212	3,707	291	7,757	-27.15	-52.21
		14,011	30,418	5,171	24,346	170.95	24.94
		5,391	61,716	5,689	58,187	-5.24	6.06
		7,971	59,230	8,789	45,493	-9.31	30.20
		1,251	18,256	1,429	21,820	-12.46	-16.33
		4,694	99,126	5,121	73,586	-8.34	34.71
		2,906	60,145	2,724	28,931	6.68	107.89
		5,248	83,105	6,147	69,370	-14.63	19.80
8537.10	<b>CNC systems</b>		526,108		417,648		25.97
8466.00	<b>Fixture &amp; accessories</b>	3,424,638	118,804	3,156,448	100,714	8.50	17.96
8466.10	of which tool	966,046	19,871	734,509	17,644	31.52	12.62
8466.20	of which workpiece	1,897,372	87,811	1,898,408	73,383	-0.05	19.66
8466.30	of which index	561,220	11,122	523,531	9,687	7.20	14.81
8466.90	<b>Parts &amp; components</b>		311,762		164,846		89.12
8466.93	of which metalcutting		195,482		111,162		75.85
8466.94	of which metalforming		116,280		53,684		116.60
8207.00	<b>Cutting tools</b>	233,642,734	285,168	142,847,459	152,121	63.56	87.46
	of which turning tools	342,795	2,428	309,563	1,988	10.74	22.13
	of which carbide drills	1,891,837	4,283	2,608,906	4,260	-27.49	0.54
	of which drills	165,626,056	54,829	121,544,704	36,766	36.27	49.13
	of which carbided boring tools	6,881	1,093	7,170	739	-4.03	47.90
	of which boring tools	376,782	2,461	529,715	2,503	-28.87	-1.68
	of which endmills	3,419,608	19,836	1,592,937	9,382	114.67	111.43
	of which taps	3,494,393	14,429	4,861,582	9,590	-28.12	50.46
	of which hack saw blades	58,484,382	22,776	11,392,882	16,160	413.34	40.94
	of which punching tools		163,033		70,734		130.49
9017.30	<b>Measuring instruments</b>	510,450	19,551	445,955	11,834	14.46	65.21
			<b>204,044</b>				
2513.20		1,901,385	4,043				
2818.10		49,139,357	25,364				
2849.20		1,378,281	4,567				
2849.90		9,199	50				
6804.10		157,354	630				
6804.21		1,225,334	27,485				
5904.22		3,821,832	43,649				
6804.23		937,808	6,203				
5904.30		534,535	3,650				
6805.10		8,408,463	36,482				
6805.20		6,606,133	30,832				
6805.30		1,287,770	15,473				
7102.21		693,067	1,816				
7102.29		25,454	77				
7105.10		15,355,164	3,723				

## **APPENDIX 2**

1. The Law of People's Republic of China on China-Foreign Joint Ventures
2. The Law of People's Republic of China on China-Foreign Contractual Enterprises
3. The Law of People's Republic of China on the Wholly Owned Foreign Enterprises

### **Two Kinds of Joint Ventures:**

#### **China-foreign joint ventures (EJV)**

China-foreign joint ventures may also be called **equity joint ventures**. They are established by foreign companies, enterprises, economic organizations, or individuals and Chinese counterparts to **invest together** in China (rights and duties of each side are stipulated in the contracts signed by each side).

#### **China-foreign contractual JV enterprises (CJV)**

In establishing China-foreign **contractual JV enterprises**, usually, **foreigners provide all or most of the funds**; Chinese enterprises or individuals provide land, factory buildings, available existing equipment and facilities; some also provide part of the funds.

To help you understand the difference better, I would like to put it in the following way.

<b>JV</b>	<b>Difference</b>
EJV	Local partner Chinese legal person Profits = equity share Funds (money) provided by both parties
CJV	Local partner Not Chinese legal person Profit $\neq$ Equity share Funds (money) provided by foreign companies



## THE LAW OF THE PEOPLE'S REPUBLIC OF CHINA ON CHINESE-FOREIGN EQUITY JOINT VENTURES

(Effective Date: 1979.07.08--Ineffective Date: )

(Adopted on July 1, 1979 at the Second Session at the Fifth National People's Congress, Amendment to the Law in accordance with "The decision on Amendment to `The Law of the People's Republic of China on Chinese-Foreign Equity Joint Venture'" was adopted on April 4, 1990 at the Third Session at the Seventh National People's Congress)

Article 1. With a view to expanding international economic cooperation and technological exchange, the People's Republic of China permits foreign companies, enterprises, other economic entities or individuals (hereinafter referred to as foreign parties) to incorporate themselves, within the territory of the People's Republic of China, into equity joint ventures with Chinese companies, enterprises or other economic entities (hereinafter referred to as Chinese parties) on the principle of equality and mutual benefit and subject to authorization by the Chinese Government.

Article 2. The Chinese Government protects, by the legislation in force, the investments of foreign parties, the profits due them and their other lawful rights and interests in equity joint ventures, pursuant to the agreements, contracts and articles of association approved by the Chinese Government. All the activities of an equity joint venture shall be governed by the laws, decrees and pertinent rules and regulations of the People's Republic of China. The State will not nationalize or expropriate any equity joint venture. Under special circumstances, based on the need of the social public interest, equity joint ventures may be expropriated under legal procedures and against appropriate compensation.

Article 3. All parties to an equity joint venture shall submit their agreements, contracts and articles of association to the State's Competent Department of Foreign Economic Relations and Trade (simplified as "the examination and approval authority" hereinafter) for examination and approval. The examination and approval authority shall decide whether to approve or disapprove them within three months. Once approved, the equity joint venture shall register with the concerned department of the State Administration for Industries and Commerce, and start operation after receiving its business license.

Article 4. An equity joint venture shall take the form of a limited liability company. In the registered capital of an equity joint venture, the proportion of the investment contributed by the foreign parties(s) shall in general not be less than 25 per cent. The profits, risks and losses of an equity joint venture shall be shared by the parties to the venture in proportion to their contributions to the registered capital. The transfer of one party's share in the registered capital shall be effected only with the consent of the other parties to the venture.

Article 5. Each party to an equity joint venture may contribute cash, capital goods, industrial property rights, etc. as its investment in the venture. The technology or equipment contributed by any foreign party as investment shall be truly advanced and appropriate to China's needs. In cases of losses caused by deception through the intentional provision of outdated equipment or technology, compensation shall be paid for the losses. The investment contributed by a Chinese party may include the right to the use of a site provided for the equity joint venture during the period of its operation. In case such a contribution does not constitute a part of the investment from the Chinese party, the venture shall pay the Chinese Government a fee for its use. The various contributions referred to in the present Article shall be specified in the contracts concerning the equity joint venture or in its articles of association, and the value of each contribution (excluding that of the site) shall be ascertained by the parties to the venture through joint assessment.

Article 6. An equity joint venture shall have a board of directors with a composition stipulated in the contract and the articles of association after consultation between the parties to the venture; each director shall be appointed and replaced by his own side. The chairman and the vice-chairmen shall be chosen through consultation by the parties to the venture or elected by the board of directors. If the Chinese side or the foreign side assumes the office of the chairman, the other side shall assume the office(s) of the vice-chairman or vice-chairmen. The board of directors shall decide on important problems concerning the equity joint venture on the principle of equality and mutual benefit. The board of directors is empowered to discuss and take action on, pursuant to the provisions of the articles of association of the equity joint venture, all fundamental issues concerning the venture, namely, expansion projects, production and business programmes, the budget, distribution of profits, plans concerning manpower and pay scales, the termination of business, the appointment or hiring of the president, the vice-president(s), the chief engineer, the treasurer and the auditors as well as their functions and powers and their remuneration etc.. The president and vice-president(s) (or the general manager and assistant general manager(s) in a factory) shall be chosen from the various parties to the equity joint venture. Procedures concerning the employment and discharge of the workers and staff members of an equity joint venture shall be stipulated according to law in the agreement or contract concluded between the parties to the venture.

Article 7. The net profits of an equity joint venture shall be distributed among the parties to the venture in proportion to their respective shares in the registered capital after the payment of an equity joint venture income tax on its gross profit pursuant to the tax laws of the People's Republic of China and after the deductions therefrom as stipulated in the articles of association of the venture for the reserve funds, the bonus and welfare funds for the workers and staff members and the expansion funds of the venture. An equity joint venture may, in accordance with provisions of the relevant laws and administrative rules and regulations of the State on taxation, enjoy preferential treatment for reduction of, or exemption from taxes. A foreign party who re-invests any part of



his share of the net profit within Chinese territory may apply for the restitution of a part of the income taxes paid.

Article 8. An equity joint venture shall, on the strength of its business licence, open a foreign exchange account with a bank or any other financial institution which is permitted by the State agency for foreign exchange control to handle foreign exchange transactions. An equity joint venture shall conduct its foreign exchange transactions in accordance with the Foreign Exchange Regulations of the People's Republic of China. An equity joint venture may, in its business operations, obtain funds from foreign banks directly. The insurances appropriate to an joint venture shall be furnished by Chinese insurance companies.

Article 9. The production and business programmes of an equity joint venture shall be filed with the authorities concerned and shall be implemented through business contracts. In its purchase of required raw and semi-processed materials, fuels, auxiliary equipment, etc., an equity joint venture shall give first priority to Chinese sources, but may also acquire them directly from the international market with its own foreign exchange funds. An equity joint venture is encouraged to market its products outside China. It may distribute its export products on foreign markets through direct channels or its associated agencies or China's foreign trade establishments. Its products may also be distributed on the Chinese market. Whenever necessary, an equity joint venture may set up affiliated agencies outside China.

Article 10. The net profit which a foreign party receives as his share after performing his obligations under the pertinent laws and agreements and contracts, the funds he receives at the time when the equity joint venture terminates or winds up its operations and his other funds may be remitted abroad in accordance with the foreign exchange regulations and in the currency or currencies specified in the contracts concerning the ventures. A foreign party is encouraged to deposit in the Bank of China and part of foreign exchange which he is entitled to remit abroad.

Article 11. The wages, salaries or other legitimate income of the foreign employees of an equity joint venture, after payment of the personal income tax under the tax laws of the People's Republic of China, may be remitted abroad in accordance with the foreign exchange regulations.

Article 12. The operation periods of equity joint ventures may be handled differently according to their particular line of business and circumstances. Equity joint ventures engaged in a certain line of business shall specify in the contracts their operation periods, while equity joint ventures engaged in another line of business may choose whether or not to specify their operation periods. In the case of an equity joint venture with its operation period specified, if the parties to the venture agree to extend the operation period, the venture may send an application to the examining and approving authority six months before the expiration of the operation period. The examining and approving authority



shall, within one month of receipt of the application, decide whether to approve or disapprove it.

Article 13. If there occur heavy losses, the failure of a party to perform its obligations under the contract and the articles of association or force majeure, etc..., the equity joint venture may terminate the contract through consultation and agreement by the parties, and subject to approval by the examination and approval authority and to registration with the State's Competent Department of Industry and Commerce Administration. In cases of losses caused by a breach of contract, the financial responsibility shall be borne by the party that has breached the contract.

Article 14. Disputes arising between the parties to an equity joint venture which the board of directors fails to settle through consultation may be settled through conciliation or arbitration by an arbitral body of China or through arbitration by an arbitral body agreed upon by the parties.

Article 15. The present law comes into force on the date of its promulgation. The right to amendment is vested in the National People's Congress.



## LAW OF THE PEOPLE'S REPUBLIC OF CHINA ON CHINESE-FOREIGN CONTRACTUAL JOINT VENTURES

(Effective Date: 1988.04.13--Ineffective Date: )

(Adopted at the First Session of the Seventh National People's Congress and promulgated by Order No. 4 of the President of the People's Republic of China on April 13, 1988, and effective as of the date of promulgation)

Article 1. This Law is formulated to expand economic cooperation and technological exchange with foreign countries and to promote the joint establishment, on the principle of equality and mutual benefit, by foreign enterprises and other economic organizations or individuals (hereinafter referred to as the foreign party) and Chinese enterprises or other economic organizations (hereinafter referred to as the Chinese party) of Chinese-foreign contractual joint ventures (hereinafter referred to as contractual joint ventures) within the territory of the People's Republic of China.

Article 2. In establishing a contractual joint venture, the Chinese and foreign parties shall, in accordance with the provisions of this Law, prescribe in their contractual joint venture contract such matters as the investment or conditions for cooperation, the distribution of earnings or products, the sharing of risks and losses, the manners of operation and management and the ownership of the property at the time of the termination of the contractual joint venture. A contractual joint venture which meets the conditions for being considered a legal person under Chinese law, shall acquire the status of a Chinese legal person in accordance with law.

Article 3. The state shall, according to law, protect the lawful rights and interests of the contractual joint ventures and of the Chinese and foreign parties. A contractual joint venture must abide by Chinese laws and regulations and must not injure the public interests of China. The relevant state authorities shall exercise supervision over the contractual joint ventures according to law.

Article 4. The state shall encourage the establishment of productive contractual joint ventures that are export-oriented or technologically advanced.

Article 5. For the purpose of applying for the establishment of a contractual joint venture, such documents as the agreement, the contract and the articles of association signed by the Chinese and foreign parties shall be submitted for examination and approval to the department in charge of foreign economic relations and trade under the State Council or to the department or local government authorized by the State Council (hereinafter referred to as the examination and approval authority). The examination and approval authority shall, within 45 days of receiving the application, decide whether or not to grant approval.

Article 6. When the application for the establishment of a contractual joint venture is approved, the parties shall, within 30 days of receiving the certificate of approval, apply to the administrative authorities for industry and commerce for registration and obtain a business license. The date of issuance of the business license of a contractual joint venture shall be the date of its establishment. A contractual joint venture shall, within 30 days of its establishment, carry out tax registration with the tax authorities.

Article 7. If the Chinese and foreign parties, during the period of operation of their contractual joint venture, agree through consultation to make major modifications to the contractual joint venture contract, they shall report to the examination and approval authority for approval, if the modifications include items involving statutory industry and commerce registration or tax registration, they shall register the modifications with the administrative authorities for industry and commerce and with the tax authorities.

Article 8. The investment or conditions for cooperation contributed by the Chinese and foreign parties may be provided in cash or in kind, or may include the right to the use of land, industrial property rights, non-patent technology or other property rights.

Article 9. The Chinese and foreign parties shall, in accordance with the provisions of the laws and regulations and the agreements in the contractual joint venture contract, duly fulfil their obligations of contributing full investment and providing the conditions for cooperation. In case of failure to do so within the prescribed time, the administrative authorities for industry and commerce shall set another time limit for the fulfilment of such obligations; if such obligations are still not fulfilled by the new time limit, the matter shall be handled by the examination and approval authority and the administrative authorities for industry and commerce according to relevant state provisions. The investments or conditions for cooperation provided by the Chinese and foreign parties shall be verified by an accountant registered in China or the relevant authorities, who shall provide a certificate after verification.

Article 10. If a Chinese or foreign party wishes to make an assignment of all or part of its rights and obligations prescribed in the contractual joint venture contract, it must obtain the consent of the other party or parties and report to the examination and approval authority for approval.

Article 11. A contractual joint venture shall conduct its operational and managerial activities in accordance with the approved contract and articles of association for the contractual joint venture. The right of a contractual joint venture to make its own operational and managerial decisions shall not be interfered with.

Article 12. A contractual joint venture shall establish a board of directors or a joint managerial institution which shall, according to the contract or the articles of association for the contractual joint venture, decide on the major issues concerning the venture. If the Chinese or foreign party assumes the



chairmanship of the board of directors or the directorship of the joint managerial institution, the other party shall assume the vice-chairmanship of the board or the deputy directorship of the joint managerial institution. The board of directors or the joint managerial institution may decide on the appointment or employment of a general manager, who shall take charge of the daily operation and management of the contractual joint venture. The general manager shall be accountable to the board of directors or the joint managerial institution. If a contractual joint venture, after its establishment, chooses to entrust a third party with its operation and management, it must obtain the unanimous consent of the board of directors or the joint managerial institution, report to the examination and approval authority for approval, and register the change with the administrative authorities for industry and commerce.

Article 13. The employment, dismissal, remuneration, welfare, labour protection and labour insurance, etc. of the staff members and workers of a contractual joint venture shall be specified in contracts concluded in accordance with law.

Article 14. The staff and workers of a contractual joint venture shall, in accordance with law, establish their trade union organization to carry out trade union activities and protect their lawful rights and interests. A contractual joint venture shall provide the necessary conditions for the venture's trade union to carry out its activities.

Article 15. A contractual joint venture must establish its account books within the territory of China, file its accounting statements according to relevant provisions and accept supervision by the financial and tax authorities. If a contractual joint venture, in violation of the provisions prescribed in the preceding paragraph, does not establish its account books within the territory of China, the financial and tax authorities may impose a fine on it, and the administrative authorities for industry and commerce may order it to suspend its business operations or may revoke its business license.

Article 16. A contractual joint venture shall, by presenting its business license, open a foreign exchange account with a bank or any other financial institution which is permitted by the exchange control authorities of the state to conduct transactions in foreign exchange. A contractual joint venture shall handle its foreign exchange transactions in accordance with the provisions of the state on foreign exchange control.

Article 17. A contractual joint venture may obtain loans from financial institutions within the territory of China and may also obtain loans outside the territory of China. Loans to be used by the Chinese and foreign parties as investment or conditions for cooperation, and their guarantees, shall be provided by each party on its own.

Article 18. The various kinds of insurance coverage of a contractual joint venture shall be furnished by insurance institutions within the territory of China.



Article 19. A contractual joint venture may, within its approved scope of operation, import materials it needs and export products it produces. A contractual joint venture may purchase, on both the domestic market and the world market, the raw and processed materials, fuels, etc. within its approved scope of operation.

Article 20. A contractual joint venture shall achieve on its own the balance of its foreign exchange receipts and expenditures. If a contractual joint venture is unable to achieve the balance of its foreign exchange receipts and expenditures on its own, it may, in accordance with state provisions, apply to the relevant authorities for assistance.

Article 21. A contractual joint venture shall, in accordance with state provisions on tax, pay taxes and may enjoy the preferential treatment of tax reduction or exemption.

Article 22. The Chinese and foreign parties shall share earnings or products, undertake risks and losses in accordance with the agreements prescribed in the contractual joint venture contract. If, upon the expiration of the period of a venture's operation, all the fixed assets of the contractual joint venture, as agreed upon by the Chinese and foreign parties in the contractual joint venture contract, are to belong to the Chinese party, the Chinese and foreign parties may prescribe in the contractual joint venture contract the ways for the foreign party to recover its investment ahead of time during the period of the venture's operation. If the foreign party, as agreed upon in the contractual joint venture contract, is to recover its investment prior to the payment of income tax, it must apply to the financial and tax authorities, which shall examine and approve the application in accordance with state provisions concerning taxes. If, according to the provisions of the preceding paragraph, the foreign party is to recover its investment ahead of time during the period of the venture's operation, the Chinese and foreign parties shall, as stipulated by the relevant laws and agreed in the contractual joint venture contract, be liable for the debts of the venture.

Article 23. After the foreign party has fulfilled its obligations under the law and the contractual joint venture contract, the profits it receives as its share, its other legitimate income and the funds it receives as its share upon the termination of the venture, may be remitted abroad according to law. The wages, salaries or other legitimate income earned by the foreign staff and workers of contractual joint ventures, after the payment of the individual income tax according to law, may be remitted abroad.

Article 24. Upon the expiration or termination in advance of the term of a contractual joint venture, its assets, claims and debts shall be liquidated according to legal procedures. The Chinese and foreign parties shall, in accordance with the agreement specified in the contractual joint venture contract, determine the ownership of the venture's property. A contractual joint venture shall, upon the expiration or termination in advance of its term, cancel its registration with the administrative authorities for industry and commerce and the tax authorities.



Article 25. The period of operation of a contractual joint venture shall be determined through consultation by the Chinese and foreign parties and shall be clearly specified in the contractual joint venture contract. If the Chinese and foreign parties agree to extend the period of operation, they shall apply to the examination and approval authority 180 days prior to the expiration of the venture's term. The examination and approval authority shall decide whether or not to grant approval within 30 days of receiving the application.

Article 26. Any dispute between the Chinese and foreign parties arising from the execution of the contract or the articles of association for a contractual joint venture shall be settled through consultation or mediation. In case of a dispute which the Chinese or the foreign party is unwilling to settle through consultation or mediation, or of a dispute which they have failed to settle through consultation or mediation, the Chinese and foreign parties may submit it to a Chinese arbitration agency or any other arbitration agency for arbitration in accordance with the arbitration clause in the contractual joint venture contract or a written agreement on arbitration concluded afterwards. The Chinese or foreign party may bring a suit in a Chinese court, if no arbitration clause is provided in the contractual joint venture contract and if no written agreement is concluded afterwards.

Article 27. The detailed rules for the implementation of this Law shall be formulated by the department in charge of foreign economic relations and trade under the State Council and reported to the State Council for approval before implementation.

Article 28. This Law shall come into force as of the date of its promulgation.



## **LAW OF THE PEOPLE'S REPUBLIC OF CHINA ON FOREIGN-CAPITAL ENTERPRISES**

(Effective Date: 1987.01.01--Ineffective Date: )

(Adopted at the Fourth Session of the Sixth National People's Congress and promulgated by Order No. 39 of the President of the People's Republic of China on and effective as of April 12, 1986)

Article 1. With a view to expanding economic cooperation and technical exchange with foreign countries and promoting the development of China's national economy, the People's Republic of China permits foreign enterprises, other foreign economic organizations and individuals (hereinafter collectively referred to as "foreign investors") to set up enterprises with foreign capital in China and protects the lawful rights and interests of such enterprises.

Article 2. As mentioned in this Law, "enterprises with foreign capital" refers to those enterprises established in China by foreign investors, exclusively with their own capital, in accordance with relevant Chinese laws. The term does not include branches set up in China by foreign enterprises and other foreign economic organizations.

Article 3. Enterprises with foreign capital shall be established in such a manner as to help the development of China's national economy; they shall use advanced technology and equipment or market all or most of their products outside China. Provisions shall be made by the State Council regarding the lines of business which the state forbids enterprises with foreign capital to engage in or on which it places certain restrictions.

Article 4. The investments of a foreign investor in China, the profits it earns and its other lawful rights and interests are protected by Chinese law. Enterprises with foreign capital must abide by Chinese laws and regulations and must not engage in any activities detrimental to China's public interest.

Article 5. The state shall not nationalize or requisition any enterprise with foreign capital. Under special circumstances, when public interest requires, enterprises with foreign capital may be requisitioned by legal procedures and appropriate compensation shall be made.

Article 6. The application to establish an enterprise with foreign capital shall be submitted for examination and approval to the department under the State Council which is in charge of foreign economic relations and trade, or to another agency authorized by the State Council. The authorities in charge of examination and approval shall, within 90 days from the date it receives such application, decide whether or not to grant approval.

Article 7. After an application for the establishment of an enterprise with foreign capital has been approved, the foreign investor shall, within 30 days from the



date of receiving a certificate of approval, apply to the industry and commerce administration authorities for registration and obtain a business licence. The date of issue of the business licence shall be the date of the establishment of the enterprise.

Article 8. An enterprise with foreign capital which meets the conditions for being considered a legal person under Chinese law shall acquire the status of a Chinese legal person, in accordance with the law.

Article 9. An enterprise with foreign capital shall make investments in China within the period approved by the authorities in charge of examination and approval. If it fails to do so, the industry and commerce administration authorities may cancel its business licence. The industry and commerce administration authorities shall inspect and supervise the investment situation of an enterprise with foreign capital.

Article 10. In the event of a separation, merger or other major change, an enterprise with foreign capital shall report to and seek approval from the authorities in charge of examination and approval, and register the change with the industry and commerce administration authorities.

Article 11. The production and operating plans of enterprises with foreign capital shall be reported to the competent authorities for the record. Enterprises with foreign capital shall conduct their operations and management in accordance with the approved articles of association, and shall be free from any interference.

Article 12. When employing Chinese workers and staff, an enterprise with foreign capital shall conclude contracts with them according to law, in which matters concerning employment, dismissal, remuneration, welfare benefits, labour protection and labour insurance shall be clearly prescribed.

Article 13. Workers and staff of enterprises with foreign capital may organize trade unions in accordance with the law, in order to conduct trade union activities and protect their lawful rights and interests. The enterprises shall provide the necessary conditions for the activities of the trade unions in their respective enterprises.

Article 14. An enterprise with foreign capital must set up account books in China, conduct independent accounting, submit the fiscal reports and statements as required and accept supervision by the financial and tax authorities. If an enterprise with foreign capital refuses to maintain account books in China, the financial and tax authorities may impose a fine on it, and the industry and commerce administration authorities may order it to suspend operations or may revoke its business licence.

Article 15. Within the scope of the operations approved, enterprises with foreign capital may purchase, either in China or from the world market, raw and semi-processed materials, fuels and other materials they need. When these



materials are available from both sources on similar terms, first priority should be given to purchases in China.

Article 16. Enterprises with foreign capital shall apply to insurance companies in China for such kinds of insurance coverage as are needed.

Article 17. Enterprises with foreign capital shall pay taxes in accordance with relevant state provisions for tax payment, and may enjoy preferential treatment for reduction of or exemption from taxes. An enterprise that reinvests in China its profits after paying the income tax, may, in accordance with relevant state provisions, apply for refund of a part of the income tax already paid on the reinvested amount.

Article 18. Enterprises with foreign capital shall handle their foreign exchange transactions in accordance with the state provisions for foreign exchange control. Enterprises with foreign capital shall open an account with the Bank of China or with a bank designated by the state agency exercising foreign exchange control. Enterprises with foreign capital shall manage to balance their own foreign exchange receipts and payments. If, with the approval of the competent authorities, the enterprises market their products in China and consequently experience an imbalance in foreign exchange, the said authorities shall help them correct the imbalance.

Article 19. The foreign investor may remit abroad profits that are lawfully earned from an enterprise with foreign capital, as well as other lawful earnings and any funds remaining after the enterprise is liquidated. Wages, salaries and other legitimate income earned by foreign employees in an enterprise with foreign capital may be remitted abroad after the payment of individual income tax in accordance with the law.

Article 20. With respect to the period of operations of an enterprise with foreign capital, the foreign investor shall report to and secure approval from the authorities in charge of examination and approval. For an extension of the period of operations, an application shall be submitted to the said authorities 180 days before the expiration of the period. The authorities in charge of examination and approval shall, within 30 days from the date such application is received, decide whether or not to grant the extension.

Article 21. When terminating its operations, an enterprise with foreign capital shall promptly issue a public notice and proceed with liquidation in accordance with legal procedure. Pending the completion of liquidation, a foreign investor may not dispose of the assets of the enterprise except for the purpose of liquidation.

Article 22. At the termination of operations, the enterprise with foreign capital shall nullify its registration with the industry and commerce administration authorities and hand in its business licence for cancellation.

Article 23. The department under the State Council which is in charge of foreign economic relations and trade shall, in accordance with this Law, formulate rules for



its implementation, which shall go into effect after being submitted to and approved by the State Council.

Article 24. This Law shall go into effect on the day of its promulgation.

